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BEFORE THE ARIZONA CORPORATION COMMISSION

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TOM FORESE – CHAIRMAN

ROBERT BURNS

DOUG LITTLE

ANDY TOBIN

BOYD DUNN

Arizona Corporation Commission

DOCKETED

APR 24 2017

DOCKETED BY

[Signature]

IN THE MATTER OF THE APPLICATION
OF ARIZONA PUBLIC SERVICE
COMPANY FOR A HEARING TO
DETERMINE THE FAIR VALUE OF THE
UTILITY PROPERTY OF THE COMPANY
FOR RATEMAKING PURPOSES, TO FIX A
JUST AND REASONABLE RETURN
THEREON, TO APPROVE RATE
SCHEDULES DESIGNED TO DEVELOP
SUCH RETURN.

DOCKET NO. E-01345A-16-0036

IN THE MATTER OF FUEL AND
PURCHASED POWER PROCUREMENT
AUDITS FOR ARIZONA PUBLIC SERVICE
COMPANY

DOCKET NO. E-01345A-16-0123

**REQUEST OF COMMISSIONER
ROBERT BURNS FOR
QUESTIONING OF ARIZONA
PUBLIC SERVICE COMPANY AND
PINNACLE WEST CAPITAL
CORPORATION WITNESSES**

Commissioner Robert Burns, in fulfillment of his role as a Commissioner of the
Arizona Corporation Commission, hereby submits questions he asks the Administrative Law
Judge to pose to witnesses of Arizona Public Service Company ("APS") and Pinnacle West

1 Capital Corporation ("Pinnacle West") whom Commissioner Burns identified in a filing last
2 Friday as persons required appear for questioning at the hearing in this rate case.

3 The questions posed here, and reasonable and necessary follow-up questions, are
4 designed to address both the underlying rate request, including developing facts that could
5 directly and indirectly explain, undermine, or reveal the need for further investigation into
6 positions and/or testimony already submitted in this matter or to be submitted during the
7 hearing starting today. The questions will also help the Commission address fundamental,
8 preliminary questions regarding commissioner disqualification from participation in this rate
9 proceeding that must be addressed before further participation by the other commissioners in
10 this matter.

11 Commissioner Burns respectfully submits that the Administrative Law Judge is
12 obligated to seek information considered relevant by each of the sitting Commissioners,
13 without favoritism or bias for or against the position of any of the Commissioners. Each
14 Commissioner has independent constitutional authority, and each is elected from and
15 represents the same voter constituency. The Administrative Law Judge does not therefore
16 have any conflict that would prevent the judge from calling the witnesses requested by
17 Commissioner Burns or posing the questions addressed below to the APS and Pinnacle West
18 witnesses.

19 Moreover, the questions posed by Commissioner Burns are directly relevant to
20 fundamental due process and jurisdictional issues. The Arizona Corporation Commission
21 and its staff is on notice of issues concerning potential disqualification of sitting
22 Commissioners from further participation in this rate case. Notice has been provided by,
23 among other things, the Application for Rehearing of Decision No. 75251 on the Ground that
24 Commissioners Tom Forese and Doug Little Should Have Recused Themselves or Been
25 Disqualified from Considering the Matter Before the Commission filed in Docket No. E-
26 01345A-13-0248 as well as notice provided by Commissioner Burns in this proceeding.
27 Questions of disqualification are fundamental due process matters that must be resolved as a
28 preliminary matter before any matters in this proceeding are directed or decided by any

Commissioners whose qualification may be subject to question. Commissioner Burns respectfully submits that the questions posed here are one key part of the investigation into disqualification issues that the Commission has an obligation to conduct.

If the Administrative Law Judge is unwilling or unable to ask the following questions, Commissioner Burns reserves all rights to seek appropriate relief to ensure that his rights as a Commissioner and the statewide interests he serves are protected and enforced. He further requests that if the proceedings are not stayed to allow such issues to be addressed, the Administrative Law Judge allow Commissioner Burns' counsel, from the law firm of Baskin Richards, PLC, namely William Richards or Alan Baskin, to ask the questions of the APS and Pinnacle West witnesses whose appearance and examination has been requested by Commissioner Burns.

QUESTIONS

Questions Concerning Impacts of Various Expenses or Anticipated Expenses on Rate Request Development

The following are questions aimed at understanding all the details about the process by which Pinnacle West and APS build the rate of return and other factors used in the APS rate application, to understand how APS and Pinnacle West set the rate of return, to understand how expenses at the Pinnacle West level are factored into the rate of return request, and to understand how various items of expense at the Pinnacle West level are funded using monies generated from APS ratepayer charges.

1. Please describe all forecasting, estimating or budgeting Pinnacle West does for the following categories of costs or expenses:
 - a. Support of political activities, including contributions for or spending on election campaigns or any other type of expenditure, contribution or support contemplated in the Pinnacle West Political Participation Guide;
 - b. Marketing efforts for APS or for Pinnacle West;
 - c. Lobbying activities;
 - d. Contributions, donations or support of charitable events or organizations; and
 - e. Contributions or donations to, support of, or sponsorship of civic or community events or public spaces or venues.

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2. Please describe all forward-looking statements that Pinnacle West makes internally or publishes externally including all :
 - a. Revenue forecasts or estimates;
 - b. Earnings forecasts or estimates;
 - c. Net income forecasts or estimates;
 - d. Dividend forecasts or estimates;
 - e. Return on equity forecasts or estimates; and
 - f. Any corporate growth-related forecasts.
 3. Please describe who participates in calculating any of the forward-looking statements described in your answers to the foregoing questions, and explain:
 - a. Whether they work for APS, Pinnacle West, or both, or whether they are a contractor or consultant;
 - b. What their title is, and what department, company or business they work for; and
 - c. What role they have in calculating any of the forward-looking statements.
 4. Please describe who is involved in approving the forward-looking statements before they are released or used.
 5. Please tell us where the worksheets or calculation data used by Pinnacle West in calculating its forward-looking statements is kept, and in what format it is kept.
 6. Please describe in detail how Pinnacle West, APS or their agents develop and/or calculate each of the types of forward-looking statements it makes or uses, including all:
 - a. Revenue forecasts or estimates;
 - b. Earnings forecasts or estimates;
 - c. Net income forecasts or estimates;
 - d. Dividend forecasts or estimates;
 - e. Return on equity forecasts or estimates; and
 - f. Any corporate growth-related forecasts.
 7. Please describe how Pinnacle West accounts for costs or expenses Pinnacle West anticipates having during the time period covered by each forward-looking statement in calculating the figures used in each forward-looking statement.

- 1 8. Please describe specifically how Pinnacle West accounts for costs or expenses
2 Pinnacle West anticipates having for marketing of either Pinnacle West or APS
3 when developing forward-looking statements.
- 4 9. Please describe all elements of cost or expense (including actual, estimated or
5 budgeted costs or expenses) used by Pinnacle West or their agents in developing
6 any forward-looking statements.
- 7 10. Please describe specifically how Pinnacle West accounts for costs or expenses
8 Pinnacle West anticipates having for marketing of either Pinnacle West or APS
9 when developing forward-looking statements.
- 10 11. Please describe specifically how Pinnacle West accounts for costs or expenses
11 Pinnacle West anticipates having for support of political activities, including
12 contributions for or spending on election campaigns or any other type of
13 expenditure, contribution or support contemplated in the Pinnacle West Political
14 Participation Guide when developing forward-looking statements.
- 15 12. Please describe specifically how Pinnacle West accounts for costs or expenses
16 Pinnacle West anticipates having for lobbying activities when developing forward-
17 looking statements.
- 18 13. Please describe specifically how Pinnacle West accounts for costs or expenses
19 Pinnacle West anticipates having for charitable contributions, donations or support
20 when developing forward-looking statements.
- 21 14. Please describe specifically how Pinnacle West accounts for costs or expenses
22 Pinnacle West anticipates having for contributions or donations to, or support of,
23 civic or community events or activities, or of civic or public spaces or venues
24 when developing forward-looking statements.
- 25 15. Please identify all documents or records, or sources of information or data, at
26 Pinnacle West or APS, or in the possession or control of their contractors, vendors,
27 advisors or consultants, which includes any reference to costs or expenses in
28 connection with calculating any forward-looking forecasts for Pinnacle West.
16. Please describe in detail how Pinnacle West's forward-looking statements are
considered or used in developing APS's rate requests.
17. Please describe in detail how Pinnacle West calculates its forward-looking
statements when it is anticipating a rate request proceeding to be completed

1 during, or immediately before, the period covered by the forward-looking
2 statement.

- 3 18. Please describe specifically what estimates or calculations of income or revenues
4 Pinnacle West uses when it creates its forward-looking statements for periods
5 expected to follow completion of an APS rate request proceeding.
- 6 19. Please tell us what service rates Pinnacle West or APS use in developing forward-
7 looking statements for periods they expect to follow conclusion of a rate request
8 proceeding.
- 9 20. Please identify all expenditures made by Pinnacle West or APS between January
10 1, 2012 and the present for:
- 11 a. Campaign or election-related expenses;
 - 12 b. Support or conduct of political activities;
 - 13 c. Support of or contributions to groups or persons engaged in political
14 activities;
 - 15 d. Support of or contributions to any independent expenditure groups or
16 organizations involved in any political activities;
 - 17 e. Marketing for APS or Pinnacle West;
 - 18 f. Charitable donations or support of charitable groups;
 - 19 g. Support of or participation in civic events;
 - 20 h. Sponsorship of civic or community events or branding on buildings or
21 venues; or
 - 22 i. Lobbying activities.

23 **Questions Concerning Expenditures that May Create**
24 **Disqualification of Commissioners from this Rate Request Case**

25 The following questions are designed to uncover facts central to the question of whether
26 expenditures, donations or support provided by APS or Pinnacle West render sitting
27 Commissioners disqualified from presiding in this rate request proceeding. For purpose of
28 these questions, you should interpret the term "political activities" as identical to the use of
that term in the Pinnacle West Political Participation Policy.

21. Describe all officers, employees, contractors or consultants of APS or Pinnacle
West who were involved in or responsible for any expenditures, contributions or


- 1 donations to any campaign or election matter or for any political activities between
2 2012 and the present.
- 3 22. Please describe how you decided in 2012 through 2016 whose campaign or
4 election matter you were going to contribute money or other support to, and please
5 describe:
- 6 a. All persons, whether employed by APS or Pinnacle West or by a third
7 party, who participated in the process by which Pinnacle West decided in
8 2012 2015 whose campaign to contribute money to;
 - 9 b. What role each person had in making the decision(s); and
 - 10 c. What consultation or interaction any such person(s) had with any candidate,
11 campaign, campaign manager or committee, campaign vendor, contractor
12 or consultant, or any friends or family of any candidate.
- 13 23. In making any expenditures, contributions or donations for or in support of any
14 campaign or election matter, or for any political activities, did Pinnacle West or
15 APS hire, contract with, pay or utilize any person or entity who was not an
16 employee of Pinnacle West or APS to have contact with or communicate with any
17 person(s), campaigns, or political activities groups who were benefitted (directly
18 or indirectly) by Pinnacle West's expenditures, contributions or donations?
- 19 24. If your answer to the last question was "yes", please identify all such person(s) or
20 entities used, and:
- 21 a. State their relationship to APS or Pinnacle West;
 - 22 b. Identify precisely what they were hired or used to do;
 - 23 c. State what you paid them to perform such services; and
 - 24 d. Identify all persons, groups, campaigns, campaign officials, campaign
25 committees, candidates, or friends or associates of candidates they
26 communicated with while being paid by APS or Pinnacle West.
- 27 25. Identify all persons employed by or whom are officers of APS or Pinnacle West
28 who have ever met or communicated with any of the Commissioners who
currently hold office for the Arizona Corporation Commission, and, for each such
person:
- a. State the date(s) on which they communicated or met with any of the
Commissioners (including all times before such Commissioner was
elected);
 - b. Describe in detail the purpose for each meeting or communication; and

- 1 c. Describe all persons involved in the meeting or communication.
- 2 26. Did you contribute, donate or pay monies to any independent expenditure groups
- 3 that could be used in support of the 2014 Arizona Corporation Commission
- 4 elections?
- 5 27. If so, who did you make any contributions, donations or payments to?
- 6 28. How much were the contributions, donations or payments?
- 7 29. Describe every step and communication involved in the process of Pinnacle West
- 8 providing any contributions, donations or payments in support of any Arizona
- 9 Corporation Commission races for 2014?
- 10 30. What role did the following persons have in deciding upon and implementing any
- 11 political activities or lobbying expenditures?
- 12
- 13 a. CEO and President of Pinnacle West or APS;
- 14 b. The Vice President, Federal Affairs of Pinnacle West or APS;
- 15 c. The Vice President, State and Local Affairs of Pinnacle West or APS;
- 16 d. Any other member of the Senior Management Team of Pinnacle West or
- 17 APS;
- 18 e. Any consultant or contractor to APS or Pinnacle West.
- 19 31. Identify every Arizona elected official whom APS or Pinnacle West has requested
- 20 call a Commissioner of the ACC and express support for a pending matter or
- 21 decision.
- 22 32. Identify every instance in which any employee, officer, agent, consultant or
- 23 contractor for APS or Pinnacle West has warned a city or other government
- 24 official that APS or Pinnacle West may have pull its support for a civic or
- 25 community event, and explain why APS or Pinnacle was indicating it may not
- 26 continue such funding.
- 27 33. Describe all involvement of APS or Pinnacle West or their consultants, agents,
- 28 employees, officers, or attorneys in interacting with independent expenditure
- groups of any kind since 2012 in connection with any ACC election.
34. Identify any and all lobbying expenditures made by Pinnacle West or APS during
- the years 2012 through 2016.

- 1 35. Identify and describe all steps taken in connection with making any of the
2 lobbying expenditures.
- 3 36. Identify and describe all persons, whether an employee of APS or Pinnacle West
4 or not, involved in any of the lobbying expenditures.
- 5 37. Identify and describe in detail the exact process by which Pinnacle West or APS
6 decide who to fund with charitable contributions or donations as it existed between
7 January 1, 2012 and the present.
- 8 38. Identify any and all candidates, potential candidates, lobbyists, campaign officials,
9 political party officials, independent expenditure group agents, or political activity
10 group members with whom any officer or agent of Pinnacle West or APS has
11 discussed any actual or potential expenditure or donation or contribution by
12 Pinnacle West or APS since January 1, 2012.

13
14 DATED this 24th day of April, 2017.

15 BASKIN RICHARDS PLC

16
17 
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19 Alan Baskin
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29 Filed in Docket Nos.
30 E-01345A-16-0036, E-01345A-16-0123) this
31 24th day of April, 2017.



CERTIFICATION OF SERVICE

On this 24th day of April, 2017, the foregoing document was filed with Docket Control as correspondence from Commissioner Bob Burns and copies of the following who have not consented to email were mailed on behalf of the Commissioner to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commissioner's eDocket program will automatically email a link of the foregoing document to the following who have consented to email service.

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